

(2) The conduct of pre-operational hearings by the Commission for the advanced nuclear facility; or

(3) Litigation that delays the commencement of full power operations of the advanced nuclear facility.

Department means the United States Department of Energy.

Full power operation means the point at which the sponsor first synchronizes the advanced nuclear facility to the electrical grid.

Grant account means the account established by the Secretary that receives appropriations or non-Federal funds in an amount sufficient to cover the amount of incremental costs for which indemnification is available under a Standby Support Contract.

Incremental costs means the incremental difference between:

(1) The fair market price of power purchased to meet the contractual supply agreements that would have been met by the advanced nuclear facility but for a covered delay; and

(2) The contractual price of power from the advanced nuclear facility subject to the delay.

Initial two reactors means the first two reactors covered by Standby Support Contracts that receive a combined license and commence construction.

Litigation means adjudication in Federal, State, local or tribal courts, including appeals of Commission decisions related to the combined license process to such courts, but excluding administrative litigation that occurs at the Commission related to the combined license process.

Loan cost means the net present value of the estimated cash flows of:

(1) Payments by the government to cover defaults and delinquencies, interest subsidies, or other payments; and

(2) Payments to the government including origination and other fees, penalties and recoveries, as outlined under the Federal Credit Reform Act of 1990.

Pre-operational hearing means any Commission hearing that is provided for in 10 CFR part 52, after issuance of the combined license.

Program account means the account established by the Secretary that receives appropriations or loan guarantee fees in an amount sufficient to cover the loan costs.

Program administrator means the Department official authorized by the Secretary to represent the Department in the administration and management of the Standby Support Program, including negotiating with and entering into a Conditional Agreement or a Standby Support Contract with a sponsor.

Related party means the sponsor's parent company, a subsidiary of the sponsor, or a subsidiary of the parent company of the sponsor.

Secretary means the Secretary of Energy or a designee.

Sponsor means a person whose application for a combined license for an advanced nuclear facility has been docketed by the Commission.

Standby Support Contract means the contract that, when entered into by a sponsor and the Program Administrator pursuant to section 638 of the Energy Policy Act of 2005 after satisfaction of the conditions in § 950.12 and any other applicable contractual, statutory and regulatory requirements, establishes the obligation of the Department to compensate covered costs in the event of a covered delay subject to the terms and conditions specified in the Standby Support Contract.

Standby Support Program means the program established by section 638 of the Act as administered by the Department of Energy.

Subsequent four reactors means the next four reactors covered by Standby Support Contracts, after the initial two reactors, which receive a combined license and commence construction.

System-level construction schedule means an electronic critical path method schedule identifying the dates and durations of plant systems installation (but excluding details of components or parts installation), sequences and interrelationships, and milestone dates from commencement of construction through full power operation, using software acceptable to the Department.

Subpart B—Standby Support Contract Process

§ 950.10 Conditional agreement.

(a) *Purpose.* The Department and a sponsor may enter into a Conditional

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Agreement. The Department will enter into a Standby Support Contract with the first six sponsors to satisfy the specified conditions precedent for a Standby Support Contract if and only if all funding and other contractual, statutory and regulatory requirements have been satisfied.

(b) *Eligibility.* A sponsor is eligible to enter into a Conditional Agreement with the Program Administrator after the sponsor has submitted to the Department the following information but before the sponsor receives approval of the combined license application from the Commission:

(1) An electronic copy of the combined license application docketed by the Commission pursuant to 10 CFR part 52, and if applicable, an electronic copy of the design certification or early site permit, or environmental report referenced or included with the sponsor's combined license application;

(2) A summary schedule identifying the projected dates of construction, testing, and full power operation;

(3) A detailed business plan that includes intended financing for the project including the credit structure and all sources and uses of funds for the project, the most recent private credit rating or other similar credit analysis for project related covered financing, and the projected cash flows for all debt obligations of the advanced nuclear facility which would be covered under the Standby Support Contract;

(4) The sponsor's estimate of the amount and timing of the Standby Support payments for debt service under covered delays; and

(5) The estimated dollar amount to be allocated to the sponsor's covered costs for principal or interest on the debt obligation of the advanced nuclear facility and for incremental costs, including whether these amounts would be different if the advanced nuclear facility is one of the initial two reactors or one of the subsequent four reactors.

(c) The Program Administrator shall enter into a Conditional Agreement with a sponsor upon a determination by the Department that the sponsor is eligible for a Conditional Agreement, the information provided by the sponsor under paragraph (b) of this section

is accurate and complete, and the Conditional Agreement is consistent with applicable laws and regulations.

EFFECTIVE DATE NOTE: At 71 FR 46325, Aug. 11, 2006, § 950.10 was revised, effective Sept. 11, 2006. Paragraph (b) of this text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 950.11 Terms and conditions of the Conditional Agreement.

(a) *General.* Each Conditional Agreement shall include a provision specifying that the Program Administrator and the sponsor will enter into a Standby Support Contract provided that the sponsor is one of the first six sponsors to fulfill the conditions precedent specified in § 950.12, subject to certain funding requirements and limitations specified in § 950.12 and any other applicable contractual, statutory and regulatory requirements.

(b) *Allocation of Coverage.* Each Conditional Agreement shall include a provision specifying the amount of coverage to be allocated under the Standby Support Contract to cover principal or interest costs and to cover incremental costs, including a provision on whether the allocation shall be different if the advanced nuclear facility is one of the initial two reactors or one of the subsequent four reactors, subject to paragraphs (c) and (d) of this section. A sponsor may elect to allocate 100 percent of the coverage to either the Program Account or the Grant Account.

(c) *Funding.* Each Conditional Agreement shall contain a provision that the Program Account or Grant Account shall be funded in advance of execution of the Standby Support Contract and in the following manner, subject to the conditions of paragraphs (d) and (e) of this section. Under no circumstances will the amount of the coverage for payments of principal or interest under a Standby Support Contract exceed 80 percent of the total of the financing guaranteed under that Contract.

(1) The Program Account shall receive funds appropriated to the Department, loan guarantee fees, or a combination of appropriated funds and loan guarantee fees that are in an amount equal to the loan costs associated with